

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JULIE ANN GENUARIO

Plaintiff,

v.

No.

POTTSTOWN HOSPITAL, LLC

JURY TRIAL DEMANDED

Defendant.

COMPLAINT

Plaintiff Julie Ann Genuario files this Complaint against Defendant Pottstown Hospital, LLC, and in support thereof avers as follows:

JURISDICTION AND VENUE

1. The jurisdiction of this Court is based upon 28 U. S. C. §1331, in that this Court has original jurisdiction of this matter, which is based upon a law of the United States of America, the Age Discrimination in Employment Act, 29 U.S. C. §621 ("ADEA").

2. Plaintiff requests a trial by jury of the claims raised herein.

3. Venue is appropriate in this Court pursuant to 28 U.S. C. §1392(b) in that Defendant has ongoing business operations in this District, Plaintiff worked within this District, and a substantial part of the events giving rise to Plaintiff's claims occurred in this District.

4. The amount in controversy exceeds \$150,000.00, exclusive of interest and costs.

5. Plaintiff has complied with the applicable administrative remedies by first filing a Charge with the Equal Employment Opportunity Commission ("EEOC") on July 31, 2023, EEOC Charge no. 530-2023-07177, which has been dual-filed with the Pennsylvania Human Relations Commission ("PHRC") (Complaint no. unknown).

6. On September 18, 2023, the EEOC issued a Notice of Right to Sue, indicating that it is unlikely that the EEOC will be able to complete its investigation within 180 days from the date that the Charge was filed, permitting Plaintiff to file her cause of action under the ADEA.

7. Upon receipt of applicable authority from the PHRC, Plaintiff intends to amend this Complaint and assert a cause of action for age discrimination under the Pennsylvania Human Relations Act, 43 P. S. §955(a), et. seq. (“PHRA”).

PARTIES

8. Plaintiff Julie Ann Genuario (“Genuario ”) is an adult female, who resides at 701 Red Rock Circle, Royersford, PA 19468.

9. Defendant Pottstown Hospital, LLC (“Pottstown Hospital”), is a Pennsylvania corporation, which maintains a principal place of business in the Commonwealth of Pennsylvania at 1600 E. High Street, Pottstown, PA 19464.

10. At all times relevant hereto, Pottstown Hospital was acting through its agents, servants, and employees, who were acting within the scope of their authority in the course of their employment and under the direct control of Pottstown Hospital.

FACTUAL BACKGROUND

11. Genuario is 63 years of age.

12. On March 19, 2001, Genuario commenced employment at Pottstown Hospital as a Clinical Pharmacist.

13. Pottstown Hospital is a 219 bed hospital in Pottstown, PA, offering a full range of health services.

14. Pottstown Hospital is part of Tower Health, a regional integrated healthcare system that has over 11,500 employees. Reading Hospital, Phoenixville Hospital and St. Christopher's Hospital for Children are also part of Tower Health.

15. Genuario was continuously employed for over 22 years until Pottstown Hospital terminated her employment on June 9, 2023.

16. In 2022, Genuario's gross earnings were \$134,248.41, plus employment benefits.

17. As a Clinical Pharmacist, Genuario's duties included verifying physician orders for medications, determining appropriate doses, participating in daily rounds with hospital staff, and numerous other clinical functions.

18. As of June 2023, Clinical Pharmacists at Pottstown Hospital reported to Meagan Pellechia ("Pellechia") (approximate age: 33), who was appointed Pharmacy Director in November 2021.

19. As of June 2023, the following eleven full-time Clinical Pharmacists were employed at Pottstown Hospital:

- a. Haseeb Shah (apx. age: 25)
- b. Michelle Turbo (apx. age: 29)
- c. Ronnie George (apx. age: 34)
4. Jennifer Norton (apx. age: 36)
- e. Greta Kolodziej (apx. age: 39)
- f. Rosine Richa (apx. age: 39)
- g. Jeanane Acker (app. age: 50)
- h. Kristy Gregory (app. age: 50)
- i. Valerie Woods (apx. age: 51)
- j. Lisa Gennaria: (apx. age: 53)
- k. Julie Ann Genuario (age 63)

20. Each of the other full-time Clinical Pharmacists are substantially younger than Genuario.¹

¹ Hereinafter, the ten other Clinical Pharmacists are collectively referred to as, "the Substantially Younger Pharmacists."

Pharmacy Director Pellechia Favorable Treatment of Substantially Younger Employees

21. Once Pellechia became Pharmacy Director, she favored younger employees over Genuario.

22. In August 2022, Genuario was advised that there was a “confidential” investigation being performed of the entire Pharmacy Department, and that she would need to participate in a confidential one-on-one interview with Crystal Whitney (“Whitney”), Human Resource Director.

23. During the interview, Genuario was advised that she had been called the “mean girl” in the department, and that a student had complained about her.

24. Genuario was also advised that there was a complaint that Genuario did not participate in a birthday party for a younger staff member.

25. Whitney also asked Genuario several other questions regarding the atmosphere in the Pharmacy Department, to which Genuario responded honestly.

26. Shortly thereafter, Pharmacy Director Pellechia advised Genuario that she was told everything that Genuario had stated at the confidential meeting.

27. Genuario then received the lowest annual performance evaluation score of her career at Pottstown Hospital.

28. Prior to Pellechia being hired as Pharmacy Director, throughout Genuario’s employment, she received satisfactory annual performance evaluations with at least a rating of “3”, defined as “Met Expectations.”

29. Pellechia gave Genuario an overall rating of “2.76”, defined as “Meets Some Standards” in Genuario’s FY2022 Employee Performance Evaluation.

30. There are occasions in which Pharmacists are permitted to work overtime hours and earn 1.5 times their regular pay rate.

31. Throughout her employment, Genuario would always help out by covering open shifts.

32. Once Pellechia became Pharmacy Director, she made it clear that she would decide who would receive overtime hours.

33. Pellechia assigned one of the Substantially Younger Pharmacists to work 72 hours per week for months in violation of applicable pharmacy law.

Carboplatin Patients

34. In May 2023, Pharmacy Director Pellechia sent an e-mail to all Clinical Pharmacists with a list of oncology patients at three Tower Health hospitals (Pottstown Hospital, Reading Hospital and Phoenixville Hospital).

35. Nowhere in the email did it indicate which patients were from which Tower Health hospital.

36. All of the patients on the list were previously treated with Carboplatin, a drug that was on manufacturer backorder, and not available.

37. In order for Genuario to perform her job, Genuario had to distinguish which patients were at Pottstown Hospital and which were at other hospitals, and the list was segregated into patients who would be treated, patients who might be treated, and patients who would not be treated.

38. Genuario had to access the patient records solely for the purpose of identifying at which hospital Tower Health patients were located, and she communicated this information to Pharmacy Director Pellachia.

39. Thereafter, as per required procedure, after obtaining the information from electronic records and in written form, Genuario placed the documents in the specially dedicated HIPAA trash disposal container at Pottstown Hospital.

40. After Pellechia's first e-mail on the issue, all further lists received for weekly Carboplatin infusions identified the Tower Health hospital where the patient was being treated; the flaw in the system that Genuario had pointed out.

41. Pottstown Hospital Clinical Pharmacists do not have desks or defined workspaces.

42. Pottstown Hospital Clinical Pharmacists were directed to secure all important work material in their personal lockers located in the pharmacy.

43. As Genuario did not have an office, the only secure place to store important records and her personal belongings was her work locker, which was secure and locked.

44. Genuario had a clear plastic sleeve in her locker that contained certain documents necessary to perform her job, including a chemotherapy quick reference guide, oncology dose rounding sheet, oncology list of vial sizes, instructions for split-dose syringes and volume changes, and a Zometa dosing guide.

44. The plastic sleeve also contained the current list of treatable Carboplatin patients that the Pharmacy Director distributed as Genuario needed the list in order to perform her job when she was working in oncology.

The Termination of Genuario's Employment

45. On June 7, 2023, Genuario was advised with no advance notice that she had to immediately report to a conference room.

46. When Genuario arrived at the conference room, Human Resource Director Whitney, Pharmacy Director Pellechia and Tammy (Fry) Hawkins, Director Compliance/Privacy Officer at Tower Health, were present.

47. Genuario was questioned by Human Resource Director Whitney regarding the information obtained concerning the Carboplatin patients.

48. At the end of the meeting Whitney advised Genuario that she was suspended pending an investigation.

49. Two days later, on June 9, 2023, Human Resource Director Whitney called Genuario on her phone and advised Genuario that her employment was terminated effective immediately for a HIPAA violation because a paper was found (presumably in her locker) with patient ID numbers and dose information, and Genuraro was told she lied about the disposing of a patient list.

50. The allegations that Genuario violated HIPAA and lied are false.

51. Genuario did not share any patient information; and she had a clear need to access patient care records for drug distribution and allocation needs as a Clinical Pharmacist.

52. Genuario stored any patient information needed for dispensing drugs in her secure locker.

53. Pottstown Hospital has a Corrective Action/Warning Notification Progressive Disciplinary Policy, which includes the following stages: Counseling, 1st Written Warning, Final Written Warning, Termination.

54. At no point in time prior to being terminated was Genuario ever issued discipline pursuant to the Corrective Action / Warning Notification Progressive Disciplinary Policy.

55. Following the termination of Genuario's employment, Pottstown Hospital changed its procedure, and required that all patient-related drug information being used by Pharmacists must be stored in locked cabinets in a designated Pharmacist work area.

56. After Genuario was terminated, her duties were taken over by the Substantially Younger Pharmacists.

57. In late June 2023, it was announced that Pharmacy Director Pellechia had "resigned."

57. In terminating Genuario's employment, Pottstown Hospital as motivated by a desire to discriminate against Genuario as an older employee and replace Genuario with a substantially younger employee.

58. Pottstown Hospital's actions were willful and outrageous in that its motives and conduct as set forth above were malicious, wanton, reckless and oppressive.

59. Genuario has incurred substantial damages due to Pottstown Hospital's termination of her employment, including lost wages, employment benefits and emotional distress.

COUNT I

VIOLATION OF AGE DISCRIMINATION IN EMPLOYMENT ACT

29 U. S. C. § 621 et. seq.

60. Paragraphs 1 to 59 are incorporated herein by reference, as if set forth in full.

61. Genuario was treated differently than substantially younger, similarly situated employees.

62. In terminating Genuario's employment and employing a substantially younger individual(s) to perform the duties previously performed by Genuario, Pottstown Hospital has discriminated against Genuario based upon her age.

63. Pottstown Hospital's decision to terminate Genuario's employment was arbitrary and capricious, and based on a discriminatory animus towards older employees in the workplace.

64. Pottstown Hospital's conduct is per se unlawful and constitutes unlawful age discrimination in violation of the ADEA.

WHEREFORE, Plaintiff Julie Ann Genuario requests that this Court enter judgment in her favor and against Defendant Pottstown Hospital, LLC, and that this Court enter a declaratory judgment that Defendant's actions complained of herein, violate and continue to violate the enactments of the federal legislature, award Plaintiff all appropriate equitable relief, award Plaintiff damages exceeding \$150,000.00, in the form of all compensation and monetary losses, which she has been denied, including back pay, front pay, pre-judgment interest, liquidated damages as defined by the Age Discrimination in Employment Act, reasonable attorneys' fees, expert witness fees, costs, and any other relief, which the court deems appropriate

/S/ Andrew S. Abramson, Esq.

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attorney for Plaintiff Julie Ann Genuario

Dated: November 13, 2023